

UNITED STATES OF AMERICA  
POSTAL REGULATORY COMMISSION  
WASHINGTON, DC 20268-0001

Before Commissioners:

Ruth Y. Goldway, Chairman;  
Nanci E. Langley, Vice Chairman;  
Mark Acton; and  
Robert G. Taub

Orchard Post Office  
Orchard, Iowa

Docket No. A2012-45

ORDER AFFIRMING DETERMINATION

(Issued February 15, 2012)

I. INTRODUCTION

On December 15, 2011, the Postal Service advised the Commission that it “will delay the closing or consolidation of any Post Office until May 15, 2012.”<sup>1</sup> The Postal Service further indicated that it “will proceed with the discontinuance process for any Post Office in which a Final Determination was already posted as of December 12, 2011, including all pending appeals.” *Id.* It stated that the only “Post Offices” subject to closing prior to May 16, 2012 are those that were not in operation on, and for which a Final Determination was posted as of, December 12, 2011. *Id.* It affirmed that it “will not close or consolidate any other Post Office prior to May 16, 2012.” *Id.* at 2. Lastly, the Postal Service requested the Commission “to continue adjudicating appeals as provided in the 120-day decisional schedule for each proceeding.” *Id.*

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<sup>1</sup> United States Postal Service Notice of Status of the Moratorium on Post Office Discontinuance Actions, December 15, 2011, at 1 (Notice).

The Postal Service's Notice outlines the parameters of its newly announced discontinuance policy. Pursuant to the Postal Service's request, the Commission will fulfill its appellate responsibilities under 39 U.S.C. § 404(d)(5).

On October 28, 2011, Judith Schimpf (Petitioner Schimpf) filed a petition with the Commission seeking review of the Postal Service's Final Determination to close the Orchard, Iowa post office (Orchard post office).<sup>2</sup> An additional petition for review was received from Philip Lack (Petitioner Lack).<sup>3</sup> The Final Determination to close the Orchard post office is affirmed.<sup>4</sup>

## II. PROCEDURAL HISTORY

On November 9, 2011, the Commission established Docket No. A2012-45 to consider the appeal, designated a Public Representative, and directed the Postal Service to file its Administrative Record and any responsive pleadings.<sup>5</sup>

On November 14, 2011, the Postal Service filed the Administrative Record with the Commission.<sup>6</sup> On December 22, 2011, the Postal Service filed an addendum to the Administrative Record.<sup>7</sup> The Postal Service also filed comments requesting that the Commission affirm its Final Determination.<sup>8</sup>

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<sup>2</sup> Petition for Review received from Judith A. Schimpf regarding the Orchard, Iowa post office 50460, October 28, 2011 (Schimpf Petition).

<sup>3</sup> Petition for Review received from Philip K. Lack regarding the Orchard, Iowa post office 50460, November 3, 2011 (Lack Petition).

<sup>4</sup> The Commission is divided equally, 2-2, on the outcome of this appeal. In the absence of a majority, the Final Determination stands.

<sup>5</sup> Order No. 962, Notice and Order Accepting Appeal and Establishing Procedural Schedule, November 9, 2011.

<sup>6</sup> The Administrative Record is attached to the United States Postal Service Notice of Filing, November 14, 2011 (Administrative Record). The Administrative Record includes, as Item No. 47, the Final Determination to Close the Orchard, IA Post Office and Establish Service by Rural Route Service (Final Determination).

<sup>7</sup> United States Postal Service Notice of Filing of Addendum to the Administrative Record, December 22, 2011. The addendum consists of a new page 2 to Item No. 17 (Addendum).

<sup>8</sup> United States Postal Service Comments Regarding Appeal, December 22, 2011 (Postal Service Comments).

Petitioners filed participant statements supporting their petitions.<sup>9</sup> On January 25, 2012, the Public Representative filed reply comments.<sup>10</sup>

### III. BACKGROUND

The Orchard post office provides retail postal services and service to 30 post office box and general delivery customers. Final Determination at 2. No delivery customers are served through this post office. The Orchard post office, an EAS-55 level facility, provides retail service from 8:45 a.m. to 12:30 p.m. and 1:30 p.m. to 4:15 p.m., Monday through Friday, and 10:15 a.m. to 12:15 p.m. on Saturday. Lobby access hours are 8:45 a.m. to 4:30 p.m., Monday through Friday, and 10:15 a.m. to 12:30 p.m. on Saturday. *Id.*

The postmaster position became vacant on January 31, 2005, when the Orchard postmaster retired. A non-career officer-in-charge (OIC) was installed to operate the post office. Retail transactions average 5 transactions daily (4 minutes of retail workload). Post office receipts for the last 3 years were \$27,586 in FY 2008; \$23,277 in FY 2009; and \$23,801 in FY 2010. There are no permit or postage meter customers. By closing this post office, the Postal Service anticipates savings of \$27,894 annually. *Id.*

After the closure, retail services will be provided by the Osage post office located approximately 6 miles away.<sup>11</sup> *Id.* Delivery service will be provided by rural route service through the Osage post office. The Osage post office is an EAS-18 level post office, with retail hours of 8:30 a.m. to 4:30 p.m., Monday through Friday, and 9:00 a.m. to 12:00 p.m. on Saturday. *Id.* Ninety-two (92) post office boxes are available. The

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<sup>9</sup> Participant Statement received from Judith A. Schimpf, December 2, 2011 (Schimpf Participant Statement); Participant Statement received from Philip K. Lack, December 2, 2011 (Lack Participant Statement).

<sup>10</sup> Public Representative Comments, January 25, 2012 (PR Comments). Accompanying the comments was the Motion of Public Representative for Late Acceptance of Comments, January 25, 2012. The motion is granted.

<sup>11</sup> MapQuest estimates the driving distance between the Orchard and Osage post offices to be approximately 5.6 miles (11 minutes driving time).

Postal Service will continue to use the Orchard name and ZIP Code. *Id.* at 4 and 5, Concern Nos. 13 and 23.

#### IV. PARTICIPANT PLEADINGS

*Petitioner.* Petitioners oppose the closure of the Orchard post office. Petitioners contend that the Final Determination contains factual errors, including a failure to consider two community businesses and the misidentification of a church, and disagree with the advantages identified by the Postal Service's proposal. Schimpf Petition at 1; Lack Petition at 1.

Both Petitioners argue that the closure will be a great inconvenience to customers, affect the ability of customers to receive medications in the mail, and not provide the same safety and protection as post office boxes. Schimpf Petition at 1; Lack Participant Statement at 1. Additionally, they argue that rural communities face more hardships due to post office closings, including the ability of all members of the community to receive effective service. Schimpf Participant Statement at 1; Lack Participant Statement at 2, 3.

Petitioners also argue that the Postal Service failed to properly calculate the economic savings resulting from the closure. They state that the economic savings calculations should be based on the OIC salary, question the prudence of closing a location that costs only \$600 per year to lease, and suggest other cost-reduction alternatives to closure. Schimpf Participant Statement at 1; Lack Participant Statement at 2, 3.

*Postal Service.* The Postal Service argues that the Commission should affirm its determination to close the Orchard post office. Postal Service Comments at 2. The Postal Service believes the appeal raises three main issues: (1) the effect on postal services; (2) the impact on the Orchard community; (3) the economic savings expected to result from discontinuing the Orchard post office. *Id.* at 1. The Postal Service asserts that it has given these and other statutory issues serious consideration and concludes

that the determination to discontinue the Orchard post office should be affirmed. *Id.* at 1-2.

The Postal Service explains that its decision to close the Orchard post office was based on several factors, including:

- the postmaster vacancy;
- minimal workload;
- low and generally decreasing office revenue;
- a variety of other delivery and retail options (including the convenience of rural delivery and retail service);
- low projected population, residential, commercial, and business growth in the area;
- minimal impact on the community; and
- expected financial savings.

*Id.* at 5. The Postal Service contends that it will continue to provide regular and effective postal services in a cost-effective manner to the Orchard community when the Final Determination is implemented. *Id.*

The Postal Service asserts that it has followed all statutorily required procedures and has addressed the concerns raised by Petitioners regarding the effect on postal services, the effect on the Orchard community, economic savings, and the effect on postal employees. *Id.* at 3.

*Public Representative.* The Public Representative concludes that the Postal Service followed applicable procedures, is neither arbitrary nor capricious, and that the decision to close the Orchard post office is supported by substantial evidence. PR Comments at 1. He nevertheless states that there are inconsistencies and unanswered questions in the Administrative Record regarding proposed replacement services and projected economic savings. *Id.* at 1-3, 3-4.

## V. COMMISSION ANALYSIS

The Commission's authority to review post office closings is provided by 39 U.S.C. § 404(d)(5). That section requires the Commission to review the Postal Service's determination to close or consolidate a post office on the basis of the record that was before the Postal Service. The Commission is empowered by section 404(d)(5) to set aside any determination, findings, and conclusions that it finds to be (a) arbitrary, capricious, an abuse of discretion, or otherwise not in accordance with the law; (b) without observance of procedure required by law; or (c) unsupported by substantial evidence in the record. Should the Commission set aside any such determination, findings, or conclusions, it may remand the entire matter to the Postal Service for further consideration. Section 404(d)(5) does not, however, authorize the Commission to modify the Postal Service's determination by substituting its judgment for that of the Postal Service.

### A. Notice to Customers

Section 404(d)(1) requires that, prior to making a determination to close any post office, the Postal Service must provide notice of its intent to close. Notice must be given 60 days before the proposed closure date to ensure that patrons have an opportunity to present their views regarding the closing. The Postal Service may not take any action to close a post office until 60 days after its determination is made available to persons served by that post office. 39 U.S.C. § 404(d)(4). A decision to close a post office may be appealed within 30 days after the determination is made available to persons served by the post office. 39 U.S.C. § 404(d)(5).

The Administrative Record indicates the Postal Service took the following steps in providing notice of its intent to close. On March 11, 2011, the Postal Service distributed questionnaires to customers regarding the possible change in service at the Orchard post office. Final Determination at 2. A total of 150 questionnaires were distributed to delivery customers. Other questionnaires were made available at the retail counter. A total of 59 questionnaires were returned. On March 30, 2011, the

Postal Service held a community meeting at the First United Church of Christ to address customer concerns. Fifty-one (51) customers attended. *Id.*

The Postal Service posted the proposal to close the Orchard post office with an invitation for comments at the Orchard and Osage post offices from June 17, 2011 through August 18, 2011. *Id.* The Final Determination was posted at the same two post offices from October 3, 2011 through November 4, 2011. Administrative Record, Item No. 49.

The Postal Service has satisfied the notice requirements of 39 U.S.C. § 404(d).

#### B. Other Statutory Considerations

In making a determination on whether or not to close a post office, the Postal Service must consider the following factors: the effect on the community; the effect on postal employees; whether a maximum degree of effective and regular postal service will be provided; and the economic savings to the Postal Service. 39 U.S.C. § 404(d)(2)(A).

*Effect on the community.* Orchard, Iowa is an incorporated community located in Mitchell County, Iowa. Administrative Record, Item No. 16. The community is administered politically by a Mayor and Council. Police protection is provided by the Mitchell County Sheriff. Fire protection is provided by the Osage Fire Department. The community is comprised of retirees and those who work in local businesses or commute to work in nearby communities. Residents may travel to nearby communities for other supplies and services. See *generally* Administrative Record, Item No. 22 (returned customer questionnaires and Postal Service response letters).

As a general matter, the Postal Service solicits input from the community by distributing questionnaires to customers and holding a community meeting. The Postal Service met with members of the Orchard community and solicited input from the community with questionnaires. In response to the Postal Service's proposal to close the Orchard post office, customers raised concerns regarding the effect of the closure

on the community. Their concerns and the Postal Service's responses are summarized in the Final Determination. Final Determination at 2-7.

Petitioner Schimpf and others raise the issue of the effect of the closing on the Orchard community, arguing that the post office is the heart of the community, a place for community gatherings, and a source of exercise for those walking to the post office. Schimpf Petition at 1; Final Determination at 7; Postal Service Comments at 12. The Postal Service contends that a community's identity derives from the interest and vitality of its residents and their use of its name, and explains that the community identity will be preserved by continuing to use the Orchard name and ZIP Code in the new address. Postal Service Comments at 13. The Postal Service further explains that customers will still be able to meet at local halls, churches, residences, the City Hall, and the Veterans of Foreign Wars (VFW)—American Legion Lodge, and may walk to those meetings for exercise. *Id.* at 13-14.

While Petitioner Schimpf indicates that the lack of a post office will prevent entry of new businesses, the Postal Service also contends that Orchard businesses will still receive reliable and effective mail service and any effect on local businesses should be negligible. Schimpf Participant Statement at 1; Final Determination at 14. The Postal Service notes there are no allegations that these businesses have plans to leave the community or will otherwise be adversely affected. Postal Service Comments at 14.

Petitioners raise the issue of the disparate impact from post office closings on rural communities. Schimpf Petition at 1; Lack Participant Statement at 1. The Postal Service maintains that it reviews post offices on a case-by-case basis, and customarily conducts studies of business activities and the feasibility of providing service by alternate means whenever there is a vacancy in a small post office. Postal Service Comments at 14.

The Postal Service has adequately considered the effect of the post office closing on the community as required by 39 U.S.C. § 404(d)(2)(A)(i).

*Effect on employees.* The Postal Service states that the Orchard postmaster retired on January 31, 2005 and that an OIC has operated the Orchard post office since



then. Final Determination at 2. It asserts that after the Final Determination is implemented, the temporary OIC may be separated and that no other Postal Service employee will be adversely affected. *Id.* at 7.

The Postal Service has considered the possible effects of the post office closing on the OIC and has satisfied its obligation to consider the effect of the closing on employees at the Orchard post office as required by 39 U.S.C. § 404(d)(2)(A)(ii).

*Effective and regular service.* The Postal Service contends that it has considered the effect the closing will have on postal services provided to Orchard customers. Postal Service Comments at 6. It asserts that customers of the closed Orchard post office may obtain retail services at the Osage post office located 6 miles away. Final Determination at 2. Delivery service will be provided by rural route service through the Osage post office. The Orchard post office box customers may obtain Post Office Box service at the Osage post office, which has 92 boxes available. *Id.*

For customers choosing not to travel to the Osage post office, the Postal Service explains that retail services will be available from the carrier. Postal Service Comments at 6, 15. The Postal Service adds that it is not necessary to meet the carrier for service since most transactions do not require meeting the carrier at the mailbox, and clarifies that carriers can accept packages in excess of 13 ounces. *Id.* The Postal Service explains that rural carrier service will alleviate the need for customers to travel to the post office for retail services and will provide them with 24-hour access to their mail. *Id.* at 7. The Postal Service also explains that carrier service is beneficial to senior citizens and those with special challenges. *Id.* at 8. Special provisions can be made for customers with special needs such as those receiving medication by mail or Mennonites who many not be able to travel the distance to Osage. *Id.* at 8-9.

Lastly, the Postal Service explains that Orchard customers may obtain a post office box from the Osage post office for a fee. *Id.* at 9. However, the Postal Service notes that cluster box units (CBUs) are provided for free, are secure and can be locked, will be safely located along carrier routes, and that customers must confront the weather regardless of retrieving mail from a post office, residential mail box, or a CBU. *Id.* at 10.

The Public Representative states that the Postal Service has relied upon the existence of CBUs and parcel lockers to address certain concerns raised by customers, but that the Postal Service never conclusively states that it would install CBUs or parcel lockers. PR Comments at 2-3. While it would have been preferable for the Postal Service to have categorically stated its intent to provide CBUs, the Commission notes that the Final Determination refers repeatedly to CBUs as a means of serving customers of the Orchard post office. Final Determination at 3 (Concern No. 6); 4 (Concern Nos. 16, 17); 5 (Concern No. 22); 6 (Concern No. 30). Finally, the use of CBUs is listed by the Postal Service among the advantages of its proposal to close the Orchard post office. *Id.* at 7.

Petitioners also suggested other cost-reduction options such as reducing post office hours of operation or eliminating administrative costs “at the top.” Schimpf Participant Statement at 1; Lack Participant Statement at 3. The Postal Service responds that it has determined that carrier service coupled with service at the Osage post office is a reasonable solution that will yield economic savings, and that it is not required to evaluate and reject alternative proposals. Postal Service Comments at 17-18.

The Postal Service has considered the issues raised by customers concerning effective and regular service as required by 39 U.S.C. § 404(d)(2)(A)(iii).

*Economic savings.* The Postal Service estimates total annual savings of \$27,894. Final Determination at 7-8. It derives this figure by summing the following costs: postmaster salary and benefits (\$30,740) and annual lease costs (\$600), minus the cost of replacement service (\$3,446).<sup>12</sup> *Id.*

The ground lease for the Orchard post office expires in approximately 2 years on November 30, 2013, and does not include a 30-day cancellation clause. Administrative

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<sup>12</sup> The Addendum to the Administrative Record filed by the Postal Service on December 22, 2011 stated that the utilization of CBUs would produce an additional one-time cost of \$4,304.39. The Commission’s responsibility in adjudicating appeals of Postal Service determinations to close or consolidate post offices is limited to “the record before the Postal Service in the making of such determination[s].” 39 U.S.C. § 404(d)(5). The Addendum seeks to add post-record information for the Commission’s consideration on appeal. The Commission has not relied on the information in the Addendum.

Record, Item No. 15. This will also be a small additional expense. The Public Representative notes that the economic savings calculation fails to include potential expenses associated with maintaining, relocating, or demolishing the building owned by the Postal Service. PR Comments at 4. Additionally, the Public Representative identifies a discrepancy between the Final Determination number of \$600 per year for rent and the Proposal Fact Sheet which lists \$500 per year. *Id.* at 3. The Public Representative recognizes this as a small discrepancy, and addresses it to suggest the Postal Service prepare its Final Determination with care. *Id.* The Commission has previously observed that the Postal Service should include in its estimate of savings those costs likely to be eliminated by the closing. The Orchard post office postmaster retired on January 31, 2005. Final Determination at 2. The post office has since been staffed by a non-career OIC who, upon discontinuance of the post office, may be separated from the Postal Service. The postmaster position and the corresponding salary will be eliminated. See, e.g., Docket No. A2011-67, United States Postal Service Comments Regarding Appeal, October 24, 2011, at 13; Docket No. A2011-68, United States Postal Service Comments Regarding Appeal, November 2, 2011, at 10. Furthermore, notwithstanding that the Orchard post office has been staffed by an OIC for approximately 7 years, even assuming the use of the presumably lower OIC salary, and that some ongoing expense of the Orchard post office may be incurred, the Postal Service would have satisfied the requirements of section 404(d)(2)(A)(iv).

Petitioners suggest other strategies for savings other than closing rural post offices. Schimpf Participant Response at 1; Lack Participant Response at 2. The Postal Service states it has broad experience with evaluating cost saving options and has determined that carrier service coupled with service at the nearby Osage post office is more cost-effective than maintaining the Orchard postal facility. *Id.* at 18. The Postal Service also alleges it is not required to evaluate and reject alternative proposals, and that its decision is supported by Administrative Record evidence. *Id.*

The Postal Service has satisfied the requirement that it consider economic savings as required by 39 U.S.C. § 404(d)(2)(A)(iv).

The Postal Service did not violate the prohibition in section 101(b) on closing the Orchard post office solely for operating at a deficit.

## VI. CONCLUSION

The Postal Service has adequately considered the requirements of 39 U.S.C. § 404(d). Accordingly, the Postal Service's determination to close the Orchard post office is affirmed.<sup>13</sup>

*It is ordered:*

The Postal Service's determination to close the Orchard, Iowa post office is affirmed.

By the Commission.

Shoshana M. Grove  
Secretary

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<sup>13</sup> See footnote 4, *supra*.

## DISSENTING OPINION OF CHAIRMAN GOLDWAY

The Administrative Record is inaccurate with regard to economic savings. As such, the Postal Service has not adequately considered economic savings as required by 39 U.S.C. § 404(d)(2)(A)(iv).

The Postal Service argues that savings should be calculated based on a full-time postmaster's salary. Yet the Orchard post office has been operated by a non-career officer-in-charge (OIC) since the former postmaster retired on January 31, 2005. On the one hand, the Postal Service argues that the effect on employees of this closing will be minimal because only a non-career OIC will be eliminated; yet on the other hand, it argues that the savings should be calculated using a full-time postmaster position. A non-career OIC has been in place for 7 years. Given this extended period of time and the Postal Service's current financial difficulties, it is clear that the Postal Service has no obligation to maintain a full-time postmaster in small facilities such as Orchard. Upon closure of the facility, the Postal Service may, at most, avoid continuing to pay the OIC level salary.

The Postal Service already claims billions of dollars in savings from reducing labor costs. I believe the savings from substituting OICs in postmaster positions throughout the nation have already been included in those billions. There are inherent and blatant contradictions in the Administrative Record that must be corrected on remand.

The Public Representative's comments point out that the Postal Service's Administrative Record makes no firm commitment to provide cluster box units (CBUs) and/or parcel lockers. "All mention of CBUs [in the Final Determination] is conditional or descriptive." PR Comments at 2-3, citing Docket No. A2011-40, Order Remanding Determination, November 18, 2011, at 9 (Order No. 982). ("The Postal Service discusses as an advantage of the Final Determination the security of cluster box

units (CBUs). It also discusses the convenience of parcel lockers....However, the Postal Service never conclusively states that it will be installing CBUs or parcel lockers. Furthermore, the Postal Service does not include any costs for installing such units. This ambiguity, in combination with the distance to the next closest postal facility, leads the Commission to question whether the Postal Service gave serious consideration to the provision of effective and regular service.”) The Postal Service’s estimated savings fail to reflect the additional costs of replacement service and the additional one-time cost of installing CBUs. Taking these omissions into account would likely reduce estimated savings to a negligible amount.

Moreover, the Postal Service recently announced a moratorium on post office closings. It is confusing and perhaps unfair to require some citizens whose post offices have received a discontinuance notice as of December 12, 2011 to gather evidence and pursue an appeal to the Commission, while others whose post offices were in the review process, but had not yet received a discontinuance notice by December 12, 2011, have the respite of a 5-month moratorium and the opportunity to have further consideration of alternatives by the Postal Service.

The citizens of Orchard, Iowa and their concerns regarding the loss of a neighborhood post office should be afforded the same opportunity to be heard and considered as the citizens of the approximately 3,700 post offices fully covered by the moratorium.

Ruth Y. Goldway

## DISSENTING OPINION OF VICE CHAIRMAN LANGLEY

The Postal Service did not adequately consider the economic savings as required by 39 U.S.C. § 404(d)(2)(A)(iv). The Postal Service should take into consideration that a non-career postmaster relief (PMR) has been in charge of this facility for 7 years, since January 2005, not an EAS-55 postmaster, and reflect the PMR's salary and benefits in its cost savings analysis. As a government entity, the Postal Service should ensure that its cost/benefit analysis accurately identifies capturable cost savings and does not overstate savings.

In addition, the Postal Service states that “[r]ural service will be provided to cluster box units (CBUs), free-standing units of individually locked mail compartments installed and maintained by the Postal Service at no cost to the customer.” Postal Service Comments at 3. The Final Determination states that it will “provide delivery and retail services by rural route service under the administrative responsibility of the Osage Post Office,...” but does not indicate if CBUs will be installed. Final Determination at 2. It is important for the Postal Service to accurately inform customers of the post office proposed for discontinuance the type of alternate delivery service they will be receiving upon the potential closing.

I find that the Administrative Record evidence does not support the Postal Service's decision to discontinue operations at the Orchard post office and should be remanded.

Nanci E. Langley